



ITW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Tomoaki HATTORI

Group Art Unit: 2859

Application No.: 10/813,303

Examiner: G. VERBITSKY

Filed: March 31, 2004

Docket No.: 119319

For: IMAGE FORMING DEVICE THAT PERFORMS DENSITY DETECTION

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the October 6, 2005 Restriction Requirement, Applicant provisionally elects Group I, claims 1-12, with traverse.

The Restriction Requirement asserts that the invention claimed in claims 1-12 and that claimed in claims 13-15 are unrelated, citing MPEP §806.04. However, this MPEP section is applicable to completely unrelated inventions, such as a shoe and a locomotive bearing. In contrast, the invention claimed in claims 1-12 and that claimed in claims 13-15 are well related. In particular, these inventions are all related to image forming devices.

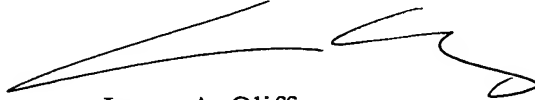
Additionally, the Restriction Requirement applies no analysis under MPEP §808.01, though it cites this section. MPEP §808.01 deals with independent inventions, not unrelated inventions as the Restriction Requirement alleges. MPEP §808.01 notes that, except for species, "independent inventions" is a situation rarely presented. This heightens the Examiner's burden of proof in invoking MPEP §808.01. As noted, the Restriction Requirement has not yet applied any analysis under this section.

Finally, the Restriction Requirement acknowledges that the inventions belong to substantially the same class and subclass. For example, the Restriction Requirement acknowledges that the invention claimed in claims 1-12 is of class 399, subclasses 39 and 130, while the invention claimed in claims 13-15 is also of class 399, subclass 130. Thus, it is improper to apply MPEP §806.04 and §808.01 to require restriction between claims 1-12 and claims 13-15.

It is also respectfully submitted that a thorough search for the subject matter of claims 1-12 would encompass a search for the subject matter of the remaining claims 13-15, because, as discussed above, the inventions belong to substantially the same class and subclass. A search in class 399, subclasses 39 and 130 for the subject matter recited in claims 1-12 will completely overlap the field of search of class 399, subclass 130 for the subject matter recited in claims 13-15. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions". (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Gang Luo
Registration No. 50,559

JAO:GXL/hs

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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